

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Rhoads

Art Unit: 2625

**Patent 7,656,565, Issuing February 2, 2010**

Conf. No.: 2476

Application No.: 10/678,584

Filed: October 3, 2003

Via Electronic Filing

For: EXPLOITING RANDOM MOTION  
DURING SCANNING TO YIELD  
IMPROVED IMAGE

Examiner: Lee

Date: January 20, 2010

**APPLICATION FOR PATENT TERM ADJUSTMENT**  
**(Request for Reconsideration of PTO's Patent Term Adjustment Determination)**  
**(37 CFR 1.705(d))**

Sir,

Applicant requests reconsideration of the Office's Patent Term Adjustment (PTA) Determination. In particular, applicant believes the 1139 day PTA listed on the PTO's Patent Term Adjustment page on PAIR is incorrect; the correct PTA is believed to be 1792 days.

Statement of Facts

The calculation of PTO Delay is believed to be in error; Applicant submits it is longer than the 1139 days indicated on the Office's PAIR Patent Term Adjustment page (attached).

In particular, Applicant believes both "14 Month to First Action" and "3 Year to Issuance" delays should have been credited in accordance with the decision of the Federal Circuit in *Wyeth v. Kappos*, Appeal 2009-1120, January 7, 2010.

The Office computed its delay as including 1218 days of 14 Month to First Action Delay, and 16 days of other delays. However, no 3 Year to Issuance delay appears to have been credited.

This application was filed on October 3, 2003, and is scheduled to issue on February 2, 2010.

Applicant submits that – properly computed – a 3 Year Delay period began on the third anniversary of the filing date (i.e., October 3, 2006), and extends until the issue date (i.e., February 2, 2010), or 1218 days. (Coincidentally, the 3 Year and 14 Month delays are 1218 days each.)

The 3 Year delay period overlaps the 14 Month to First Action delay by 549 days, and the 3 Year delay wholly overlaps the 16 days of other delays.

Applicant thus believes the correct PTA should be 1792 days, computed as follows:

1218 days	14 Month Delay
1218 days	3 Year Delay
-549 days	Overlap between 14 Month and 3 Year delays
<u>-95 days</u>	Applicant delay
1792 days	

There was no circumstance constituting a failure to engage in reasonable efforts to conclude processing or examination of the application – other than those already considered in the PTO's earlier determination of patent term adjustment.

Date: January 20, 2010  
**CUSTOMER NUMBER 23735**

Phone: 503-469-4800  
FAX 503-469-4777

Respectfully submitted,  
DIGIMARC CORPORATION

By /William Y. Conwell/  
William Y. Conwell  
Registration No. 31,943

		Download	Order Certified Application As Filed	Order Certified File Wrapper	View Order List							
10/678,584		EXPLOITING RANDOM MOTION DURING SCANNING TO YIELD IMPROVED IMAGE										
Selected	New Case	Application Data	Transactions	Image File	Patent Term Adjustments	Comments	Published Date	Address & Document	Assignments	Examiner	Priority Dates	Examiner
<b>Patent Term Adjustment</b>												
Filing or 371(c) Date:		10-03-2003			USPTO Delay (PTO) Delay (days):						1234	
Issue Date of Patent:		-			Three Years:						-	
Pre-Issue Petitions (days):		+0			Applicant Delay (APPL) Delay (days):						95	
Post-Issue Petitions (days):		+0			Total Patent Term Adjustment (days):						1139	
USPTO Adjustment (days):		+0			<a href="#">Explanation Of Calculations</a>							
<b>Patent Term Adjustment History</b>												
Date	Contents	Description									PTO(Days)	APPL(Days)
01-13-2010	PTA 36 Months											
02-02-2010	Patent Issue Date Used in PTA Calculation											
12-29-2009	Dispatch to FDC											
12-16-2009	Response to Reasons for Allowance											
12-22-2009	Application Is Considered Ready for Issue											
12-16-2009	Issue Fee Payment Verified											
12-16-2009	Issue Fee Payment Received											
09-23-2009	Mail Notice of Allowance										10	
06-24-2009	Notice of Allowance Data Verification Completed											
06-24-2009	Document Verification											
06-19-2009	Paralegal TD Accepted											
05-13-2009	Terminal Disclaimer Filed											
06-02-2009	Date Forwarded to Examiner											
05-13-2009	Response after Non-Final Action											50
05-13-2009	Request for Extension of Time - Granted											
12-24-2008	Mail Non-Final Rejection										6	
12-22-2008	Non-Final Rejection											
08-18-2008	Information Disclosure Statement considered											
10-15-2008	Paralegal TD Accepted											
08-18-2008	Terminal Disclaimer Filed											
08-18-2008	Reference capture on IDS											
08-18-2008	Information Disclosure Statement (IDS) Filed											
10-10-2008	Date Forwarded to Examiner											
08-18-2008	Response after Non-Final Action											45
08-18-2008	Request for Extension of Time - Granted											
08-18-2008	Information Disclosure Statement (IDS) Filed											
04-04-2008	Mail Non-Final Rejection										1218	
03-31-2008	Non-Final Rejection											
05-17-2004	Information Disclosure Statement considered											
08-03-2006	IFW TSS Processing by Tech Center Complete											
05-17-2004	Reference capture on IDS											
05-17-2004	Information Disclosure Statement (IDS) Filed											
05-17-2004	Information Disclosure Statement (IDS) Filed											
07-14-2006	Case Docketed to Examiner in GAU											
03-31-2004	Application Return from OIPE											
03-31-2004	Application Return TO OIPE											
03-31-2004	Application Return from OIPE											
03-31-2004	Application Is Now Complete											
03-08-2004	Additional Application Filing Fees											
03-08-2004	Small Entity Statement (37 CFR 1.27)											
03-08-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic											
12-31-2003	Notice Mailed--Application Incomplete--Filing Date Assigned											
12-31-2003	Pre-Exam Office Action Withdrawn											
12-30-2003	Application Return TO OIPE											
12-30-2003	Application Dispatched from OIPE											
12-30-2003	Application Is Now Complete											
12-17-2003	Cleared by OIPE CSR											
10-31-2003	IFW Scan & PACR Auto Security Review											
10-03-2003	Initial Exam Team nn											

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [PTO@uspto.gov](mailto:PTO@uspto.gov) for specific questions about Patent Application Information Retrieval (PAIR).